

July 24, 2001

Samuel McClerren
Cindy Jackson
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

smcclerren@icc.state.il.us
cjackson@icc.state.il.us

RE: ICC Docket 00-0596, Revisions to Part 730, Telephone Quality of Service

Dear Mr. McClerren and Ms. Jackson:

As agreed at the last workshop on July 9, I am submitting some proposals about fines and penalties and reporting. These proposals are being offered for purposes of discussion. The final position of the Attorney General's office is still subject to review.

I. Fines, penalties and other enforcement mechanisms

HB 2900 provides that in adopting service quality rules, the Commission shall consider, at a minimum, the carrier's gross annual intrastate revenue; the frequency, duration and recurrence of the violation; and the relative harm caused the affected customers or other users of the network. In imposing fines, the Commission shall take into account compensation or credits paid by the telecommunications carrier to its customers pursuant to this Section. @ Section 13-712(c).

Given the wide variation in size, service area, number of customers, and performance of the carriers in the state, it would be difficult to develop a generic methodology for imposing fines, penalties and other enforcement mechanisms. @ Rather, the rule should state that the Commission will hold hearings, upon complaint or upon its own motion, to adopt a specific remedy based on the specific circumstances presented. In addition, given the special circumstances attendant upon alternative regulation and the existence of penalty provisions in the Commission 1994 Alternative Regulation Order (ICC Docket 92-0448/93-0239, Order, October 11, 1994), a specific provision that companies subject to alternative regulation may have fines, penalties and other enforcement mechanisms determined in a company specific docket or in an alternative regulation plan is appropriate.

REPLACE section 730.120 Penalties (in 7th version) with the following provision allowing the Commission to assess fines, penalties or impose other enforcement mechanisms:

Upon complaint or its own motion and after notice and a hearing, the Commission may assess fines, penalties or impose other enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this Part. In determining the appropriate fines, penalties or other enforcement mechanisms, the Commission shall consider, at a minimum, the carrier's gross annual intrastate revenue; the frequency, duration, and recurrence of the violation; and the relative harm caused to the affected customer or other users of the network. In imposing fines, the Commission shall take into account compensation or credits paid by the telecommunications carrier to its customers pursuant to this Part in compensation for the violation found pursuant to this Part. In addition, carriers subject to alternative regulation may have fines, penalties and other enforcement mechanisms determined in a company specific docket and may incorporate fines, penalties or other enforcement mechanisms as part of an alternative regulation plan.

II. Reporting Requirements

HB 2900 provides: AThe rules shall require each telecommunications carrier to provide to the Commission, on a quarterly basis and in a form suitable for posting on the Commission's website, a public report that includes performance data for basic local

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exchange service quality of service. The performance data shall be disaggregated for each geographic area and each customer class of the State for which the telecommunications carrier internally monitored performance data as of a date 120 days preceding the effective date of this amendatory Act of the 92nd General Assembly. The report shall include, at a minimum, performance data on basic local exchange service installations, lines out of service for more than 24 hours, carrier response to customer calls, trouble reports, and missed repair and installation commitments.” 13-712(f). In Version 7 of the draft Part 730, this statutory language is mirrored in Section 730.115, Reporting.

A baseline level of reporting should be specified in the rule with a caveat that other, more detailed reporting requirements for carriers subject to alternative regulation may be determined in a company specific docket. The alternative regulation provision is necessary to reflect the different incentives the Commission has recognized can result from alternative regulation, and its adoption of specific reporting requirements as part of Illinois Bell's the alternative regulation plan. See ICC Docket 92-0448/93-0239, Order, October 11, 1994 and ICC Docket 98-0252/0335/00-0764, pending.

In Version 7, monthly exception reporting requirements are included in each section that addresses the particular service being measured (e.g., 730.510, 515, 520, 535, 540, but not 545), and 730.510 contains an annual reporting requirement for business and repair office answer times. I proposed that one section, specifying all reporting requirements pursuant to section 13-712(f), describe the reporting requirements imposed pursuant to section 13.712(f). The existing section 730.115 in Version 7 can be expanded for this purpose. The first paragraph could be retained, and the second paragraph replaced with the following:

Each telecommunications carrier shall provide the Commission, on a quarterly basis and in a form suitable or posting on the Commission's website, a public report that includes performance data for basic local exchange service quality of service. Each carrier shall report business and residential data separately and shall disaggregate the data by geographic area to the extent the carrier internally disaggregated its data by geographic area as of March 1, 2001, but in any event at least to the extent required by

Federal Communications Commission ARMIS Report 43-05, Table II, i.e., residence Metropolitan Statistical Area (MSA), residence non-MSA, business MSA, business non-MSA, residence total, business total, and total. Each carrier shall certify to the Commission the geographic areas and customer classes it internally monitored as of March 1, 2001, and the Commission will maintain the certificate in its files for public inspection. The following service quality data shall be reported consistent with the calculation of the measures stated in this Part for each service quality measure:

1. *Average operator answer time* 730.510 (a)
2. *Average repair office answer time* 730.510 (b)
3. *Average business or customer service answer time* 730.510 (b)
4. *Average dial tone speed* 730.515
5. *% of calls not encountering "All Trunks Busy" signal* 730.520
6. *% of incoming inter-MSA calls during the busy hour receiving ringing signal, station busy tone, or intercept (other than encountering All Trunks Busy on the first attempt* 730.520
7. *Average OOS repair time* 730.535
 - (a) *number of customers receiving OOS>24 credits pursuant to Part 732*
 - (b) *total OOS>24 customer credit amount paid pursuant to Part 732*
 - (c) *number of OOS>24 exemptions claimed pursuant to Part 732*
 - (d) *total OOS>24 customer credits not paid per exemption claimed pursuant to Part 732*
8. *Missed repair appointments*
 - (a) *Number of customers receiving credits for missed repair appointments pursuant to Part 732*

- (b) *total amount of customer credits paid due to missed repair appointments pursuant to Part 732*
- (c) *number and type of exemption claimed relative to missed repair appointments pursuant to Part 732*
- (d) *total missed repair appointment customer credits not paid per exemption pursuant to Part 732*

- 9. *Average installation time* 730.540
- (a) *number of customers receiving late installation credits pursuant to Part 732*
- (b) *total late installation customer credit amount paid pursuant to Part 732*
- (c) *number and type of exemptions claimed relative to late installation credits pursuant to Part 732*
- (d) *total late installation customer credits not paid per exemption pursuant to Part 732*

- 10. *Missed installation appointments*
- (a) *Number of customers receiving credits for missed installation appointments pursuant to Part 732*
- (b) *total amount of missed installation appointment customer credits paid pursuant to Part 732*
- (c) *number of exemptions claimed relative to missed installation appointments pursuant to Part 732*
- (d) *total missed installation appointment customer credits not paid per exemption claimed pursuant to Part 732*

- 11. *Rate of customer network trouble reports per 100 access lines per month* 730.545(a)
- 12. *% of repeat trouble reports* 730.545(c)
- 13. *% of installation trouble reports* 730.545(f)

Carriers subject to alternative regulation may have additional reporting requirements determined in a company specific docket, and the Commission may incorporate additional reporting requirements as part of an alternative regulation plan.

These proposed reporting requirements are based on the rules in Parts 730 and 732, and include services that the carriers are already required to monitor. Reporting of customer credit information is consistent with Part 732, and will enable the Commission and the public to have ready access to information that is relevant to assessing the quality of a particular carrier's performance.

I am available to discuss these proposals with you and at the workshop scheduled for August 1, 2001.

Very truly yours,

Susan L. Satter
Assistant Attorney General
Public Utilities Bureau
100 West Randolph Street
Chicago, Illinois 60601
(312) 814-1104
ssatter@atg.state.il.us

cc: Erika Edwards, Attorney

General's Office
Julie Lucas, Citizens Utility Board
Karen Coppa, City of Chicago